

1 Charles L. Murray III, SBN 195053
2 444 South Flower St., Suite 1500
3 Los Angeles, California 90071
4 Telephone (213) 627-5983
5 Facsimile (213) 627-6051

6 Attorney for Plaintiff
7 MARK D. DAVIS

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA-LOS ANGELES

10 MARK D. DAVIS,
11 Plaintiff,

12 vs.

13
14 DAVIDSON HOTEL COMPANY, LLC, a
15 Delaware limited liability company; TOM
16 HARWELL, an individual; and DOES 1-
17 50, inclusive,
18 Defendants

} Case No: CV12-06327 CAS (AJWx)
} JUDGE: HON CHRISTINA A. SNYDER

} **DECLARATION OF CHARLES L.**
} **MURRAY III IN SUPPORT**
} **OPPOSITION TO EX PARTE**
} **APPLICATION**

19
20 **DECLARATION OF CHARLES L. MURRAY III**

21 I, Charles L. Murray III, declare as follows:

- 22 1. I am counsel of record for Plaintiff MARK D. DAVIS ("DAVIS") in this case.
23 2. I am a member in good standing of the State Bar of California and have been
24 admitted to practice before this Federal Court in the Central District of California.
25 This declaration is submitted in support of Plaintiff's Opposition to Defendants *ex*
26 *parte* motion for an order to shorten time. I have personal knowledge of the facts
27 set forth below and if called as a witness, I could and would testify to these same
28 facts under oath.

- 1 3. On October 17, 2012, Plaintiff's initial disclosures included the identity of
2 TRACY WARD, MOHAMMAD GHAZIZADEH, AND LEILA CLAIRK and
3 their knowledge as to the hostile work environment and harassment of TRACY
4 WARD.
- 5 4. Defendants conducted no depositions nor any discovery relating to TRACY
6 WARD, MOHAMMAD GHAZIZADEH, AND LEILA CLAIRK.
- 7 5. At the Pre-Trial Conference on May 21, 2013, Counsel for Defendant ANN
8 FROMHOLZ, had informed me that she intended upon filing a Motion in Limine
9 to exclude all testimony alleging harassment that was not directed at Plaintiff
10 DAVIS.
- 11 6. I understand this declaration is under the penalty of perjury, and I do not want to
12 misrepresent anything. I do not specifically recall the discussions relating to
13 specifying the exact witnesses or exact exhibits, but I am certain that on the pre-
14 trial conference on May 21, 2013 I informed Ms. Fromholz that I was reserving
15 my rights to call all witnesses and use all exhibits in my pre-trial disclosures. I
16 have been to trial many times, and I would never preclude any witness or
17 documents at such an early stage.
- 18 7. I recall Ms. Fromholz taking the same position that she was she was reserving all
19 the Defendants rights to call all disclosed witnesses and exhibits.
- 20 8. There is absolutely no prejudice as Defendants were aware of the identity of these
21 witnesses, and they would not have been able to conduct discovery after May 21,
22 2013.
- 23 9. On June 10, 2013 Defendant filed their Pre-Trial MEMORANDUM and
24 specifically referred to CACI 2125A related to Claim No. 2 for Plaintiff's claims
25 for Harassment by Association. Defendants correctly point out that Plaintiff filed
26 his the next day, which also contained the reference to CACI 2125A.
- 27 10. The Declaration filed by Ms. Fromolz, in particular paragraph 5 of her
28 declaration, is misleading. Ms. Fromholz was well aware of Plaintiff's

1 associational harassment claims as evidenced by (1) Plaintiff's First Amended
2 Complaint; (2) Defendants' Reply to Plaintiff's Opposition to the MSJ; (3) The
3 Court's Tentative Ruling; and (4) Defendants own MEMORANDUM filed on June
4 10, 2013 citing CACI 2125A.

5 11. I filed Plaintiff's MEMORANDUM on June 11, 2013 and corresponded with
6 Defendants' Counsel relating to organizing the final pre-trial MEMORANDUM
7 on June 11 and 12 of 2013. I never received any issue or response they had with
8 the filing of Plaintiff's MEMORANDUM nor Plaintiff's Witness List.

9 12. Defendants never attempted in good faith to Meet and Confer with this Ex Parte
10 Application as I was given notice at 8:30pm on Friday, June 14, 2014.

11
12 Executed on June 17, 2013 in Los Angeles, California.

13
14 I declare under penalty of perjury under the laws of the United States that the
15 foregoing is true and correct to the best of my knowledge and understanding.

16
17 

18
19 _____
20 Charles L. Murray III